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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,448	12/06/2005	Koji Kawaguchi	FEC 142NP	2403
23995	7590	06/23/2010		
RABIN & Berdo, PC 1101 14TH STREET, NW SUITE 500 WASHINGTON, DC 20005			EXAMINER CLARK, GREGORY D	
			ART UNIT	PAPER NUMBER
			1786	
			MAIL DATE	DELIVERY MODE
			06/23/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/519,448	Applicant(s) KAWAGUCHI ET AL.	
	Examiner GREGORY CLARK	Art Unit 1786	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/16/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/09/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The examiner acknowledges the receipt of the applicants' arguments/ remarked dated 05/17/2010. Claims 1-8 cancelled, claims 9-16 pending.

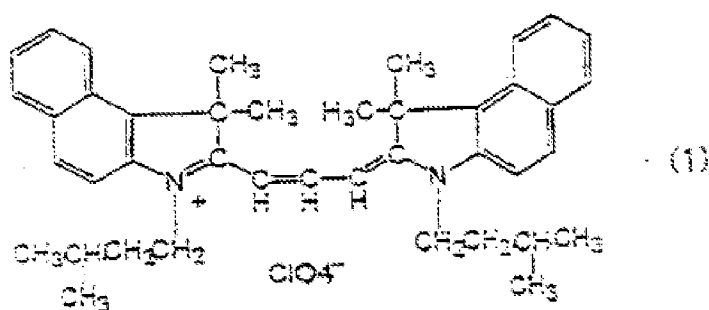
Rejections and objections made in previous office action that do not appear below have been overcome by applicant's amendments and therefore the arguments pertaining to these rejections/objections will not be addressed.

Claim Rejections - 35 USC § 103

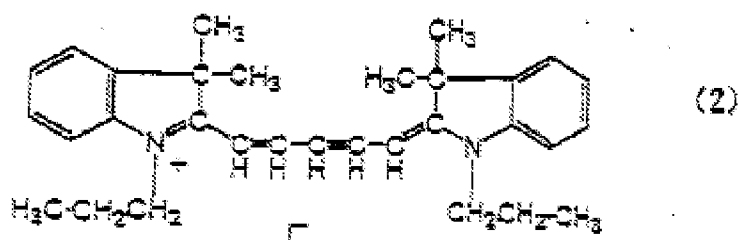
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

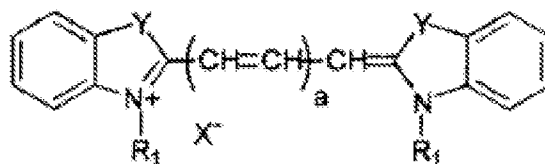
1. **Claims 9-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi (GB2349388) in view of Namba (5,506,357).**
2. **Regarding Claims 9 and 13**, Kobayashi discloses a blue color filter containing a first colorant represented by the following structural formula (1) with a ClO_4^- anion (page 5).



A photosensitive resin (binder resin) (page 7, paragraph 1) and a second colorant represented by the following structural formula (2) (page 6).



Kobayashi also indicates that when a phthalocyanine dye like formula (1) is used alone large deviations from the desired hue can be caused (page 4) and a color mixture of different dyes is selected to suppress undesirable light transmission to improve the color purity (page 5). The second colorant claimed by the applicant (shown below, structure 3) differs from the second colorant disclosed by Kobayashi (shown above, structure 2) in that the applicant claims the Y position is substituted with sulfur or oxygen and Kobayashi discloses only alkyl substitution in the Y position.

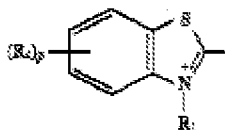


(3)

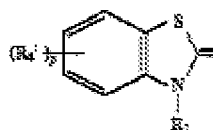
Namba discloses cyanine dyes with various substitutions in the Y position.

Namba discloses that cyanine dyes are used in applications that include: silver halide photographs, dye lasers, optical recording media, and electrophotographic sensitizers (Column 1, lines 24-27).

Representative cyanine dyes are shown below:



(4)



(5)

Structures 4 and 5 shown above represent cyanine dyes with a sulfur atom substituted at the Y position as claimed by the applicant. While one may argue that Namba is from a different field of endeavor because the use of the dye is different. The examiner would disagree, because of the way a chemist works. One working in the art looks at the material that they are working with in this case Kobayashi, and then looks through the art as a whole looking for analogous dye structures (using a structure search) to see what related structures have been made. Namba clearly demonstrates that cyanine dyes with a sulfur atom in the Y position was known in the art at the time of the invention.

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Kobayashi teaches a blue color filter and indicates that a single dye leads to large deviations from the desired hue. As the desired hue is blue, the examiner interprets this to mean that a combination of dyes acts to filter out other colors and give a sharper blue color. As Kobayashi and applicant disclose phthalocyanine dye based dyes, and Kobayashi places no limitation of the type of phthalocyanine dye it is reasonable for one of ordinary skill in the art to have selected from known phthalocyanine dyes.

With a reasonable expectation of success, a person of ordinary skill in the art could readily replace the cyanine dye claimed by Kobayashi with the cyanine dye disclosed by Namba since both are cyanine dyes and one would expect that they would behave in a similar fashion or to have constructed the dye taught by Kobayashi with a sulfur in the number 3 position on the ring instead of a carbon as taught by Namba since analogous dye structures have that type of substitution.

This merely involves the substitution of one cyanine dye for another. Namba shows that dyes of the claimed type were known at the time the invention was made.

Thus, evidence of similar properties or evidence of any useful properties disclosed in the prior art that would be expected to be shared by the claimed invention weighs in favor of a conclusion that the claimed invention would have been obvious. *Dillon*, 919 F.2d at 697-98, 16 USPQ2d at 1905; *In re Wilder*, 563 F.2d 457, 461, 195 USPQ 426, 430 (CCPA 1977); *In re Linter*, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

Kobayashi does not mention the anions used for the second colorant.

Namba discloses that generally cyanine dyes are coupled with anions such as, ClO_4^- (column 4, lines 7-8) which is included in the list of anions listed by the applicant.

Kobayashi and Namba fail to mention that the first colorant and the second colorant are completely dissolved in the binder resin.

The applicant claims the first colorant and the second colorant are completely dissolved in the binder resin.

The examiner notes that on page 7 of applicants' specification a means for achieving the pigment dispersion is described as mixing a binder resin with a blue pigment dispersion containing a copper phthalocyanine blue, a cyanine type (pigment), an organic solvent [a pigment derivative for dispersion stabilization (added if necessary)] and a dispersant to form a fine dispersion of the pigment and stabilization is affected using a disperser such as a sand mill. As a result, the transmission of light in a wavelength region of 500 to 550 nm can be suppressed, and hence the color purity can be improved (page 8).

Kobayashi discloses a pigment dispersion is achieved by mixing a photosensitive resin (binder resin) (page 7) with a blue pigment dispersion containing a finely dispersing and stabilizing copper phthalocyanine blue, a cyanine type (pigment), an organic solvent containing a pigment derivative (if necessary) and a dispersing agent using a disperser such as a sand mill. Kobayashi discloses the use of a transparent substrate and a transparent photosensitive (photopolymerizable) resin (page 13). Kobayashi also discloses that the transmission of light in a wavelength region of 500 to 550 nm can be suppressed, and hence the color purity can be improved (page 7).

As both Kobayashi/Namba and the applicant use similar pigments mixed with a transparent photopolymerizable resin, solvent-dispersant (if necessary) with stabilization affected by a disperser such as a sand mill, the pigments used by Kobayashi/Namba would also be expected to be completely soluble and meet the claim limitations.

The reduction of scattering transparency along with the improvement of contrast and color were viewed as inherent properties of the claimed materials. As Kobayashi in view of Namba discloses a blue color filter composed on the claimed materials, the blue color filter of Kobayashi in view of Namba would be expected to meet the instant limitations.

Kobayashi and Namba fail to mention a blue color filter having high transmissivity in the blue visible wavelength region and a low transmissivity in a green wavelength and a second colorant that absorbs fluorescence from the first colorant at least in the range of 600-700 nm and does not have a fluorescence maximum in a visible wavelength region so that the blue color is improved. Add more

Kobayashi in view of Namba discloses a blue color filter that suppresses fluorescence in the same region mentioned by applicant (500 to 550 nm). The properties of the dissolved blue color filter are viewed as inherent and would be expected to provide blue color emission in the claimed region since the blue color filter is composed of similar materials.

3. **Regarding Claims 10, 12, 14 and 16**, Kobayashi teaches an electroluminescent device (organic EL device) containing an organic light emitting layer (page 14) and a

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blue color filter (page 6). Kobayashi teaches that the layers are formed by a lamination process (page 14 and 15).

4. **Regarding Claims 11 and 15**, Kobayashi and Kamba does not mention the role of the disclosed counter ions as claimed by the applicant shown below:

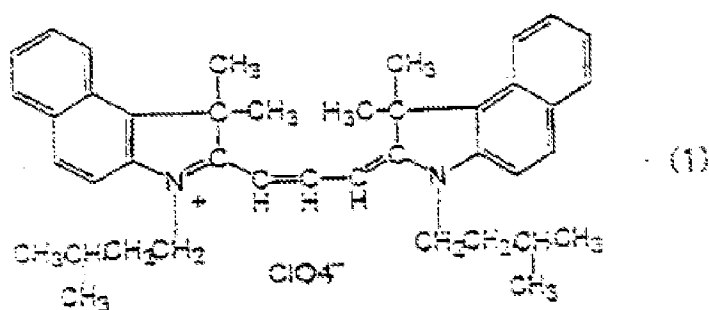
- a quencher anion that fluorescence from the first colorant or the second colorant

It is common in the art to introduce counter ions (anions) into the cationic device dye structures such that local charge neutrality (cationic dye + anion = neutral ionic dye) is preserved and the subsequent electroluminescence results in higher color purity by preventing interaction between the electroluminescence light and the cationic dye as the light passes through the color filter. The anions disclosed by Kobayashi would therefore function as quenching anions and read on the instant claim.

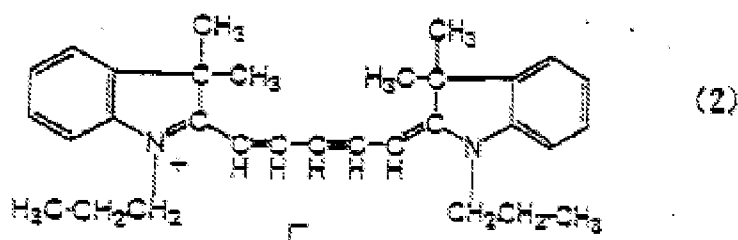
5. **Claims 9, 11, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi (GB2349388) in view of Tang (US 4, 769,292).**

6. **Regarding Claims 9 and 13**, Kobayashi discloses a blue color filter containing a first colorant represented by the following structural formula (1) with a ClO_4^- anion (page 5).

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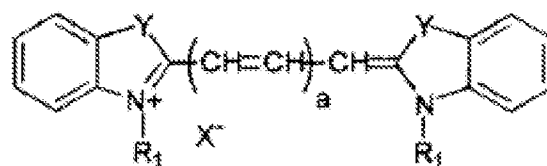
A photosensitive resin (binder resin) (page 7, paragraph 1) and a second colorant represented by the following structural formula (2) (page 6).



Kobayashi also indicates that when a phthalocyanine dye like formula (1) is used alone large deviations from the desired hue can be caused (page 4) and a color mixture of different dyes is selected to suppress undesirable light transmission to improve the color purity (page 5).

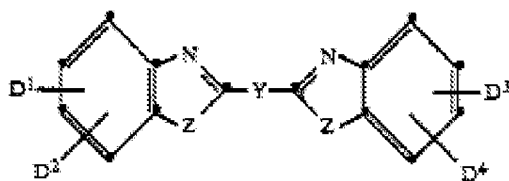
The second colorant claimed by the applicant (shown below, structure 3) differs from the second colorant disclosed by Kobayashi (shown above, structure 2) in that the applicant claims the Y position is substituted with sulfur or oxygen and Kobayashi discloses only alkyl substitution in the Y position.

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(3)

Tang discloses an electroluminescent device that contains a fluorescent material (abstract). The fluorescent materials include fluorescent dyes and cyanines are presented as an example (column 13, lines 35-37). Tang discloses that the cyanines dyes are represented by the compound of generic formula 6:



Formula 6

Tang also discloses a specific cyanines dye where $Z = S$ and the ammonium salts has a ClO_4^- counter ion in formula 7:



Formula 7

Tang clearly teaches cyanine dyes that read directly on the applicants' formula 3 were known at the time of the invention and used in electroluminescent devices.

It would have been obvious to a person of ordinary skill at the time of the invention to have selected from known cyanine dyes used in electroluminescent devices

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which would have included those taught by Tang which read on the applicants' formula 3.

Kobayashi and Tang fail to mention claims the first colorant and the second colorant are completely dissolved in the binder resin.

The applicant claims the first colorant and the second colorant are completely dissolved in the binder resin.

The examiner notes that on page 7 of applicants' specification a means for achieving the pigment dispersion is described as mixing a binder resin with a blue pigment dispersion containing a copper phthalocyanine blue, a cyanine type (pigment), an organic solvent [a pigment derivative for dispersion stabilization (added if necessary)] and a dispersant to form a fine dispersion of the pigment and stabilization is affected using a disperser such as a sand mill. As a result, the transmission of light in a wavelength region of 500 to 550 nm can be suppressed, and hence the color purity can be improved (page 8).

Kobayashi discloses a pigment dispersion is achieved by mixing a photosensitive resin (binder resin) (page 7) with a blue pigment dispersion containing a finely dispersing and stabilizing copper phthalocyanine blue, a cyanine type (pigment), an organic solvent containing a pigment derivative (if necessary) and a dispersing agent using a disperser such as a sand mill. Kobayashi discloses the use of a transparent substrate and a transparent photosensitive (photopolymerizable) resin (page 13). Kobayashi also discloses that the transmission of light in a wavelength region of 500 to 550 nm can be suppressed, and hence the color purity can be improved (page 7).

As both Kobayashi/Tang and the applicant use similar pigments mixed with a transparent photopolymerizable resin, solvent-dispersant (if necessary) with stabilization affected by a disperser such as a sand mill, the pigments used by Kobayashi/ Tang would also by expect to be completely soluble and meet the claim limitations.

The reduction of scattering transparency along with the improvement of contrast and color were viewed as inherent properties of the claimed materials. As Kobayashi in view of Tang discloses a blue color filter composed on the claimed materials, the blue color filter of Kobayashi in view of Tang would be expected meet the instant limitations.

Kobayashi and Tang fail to mention a blue color filter having high transmissivity in the blue visible wavelength region and a low transmissivity in a green wavelength and a second colorant that absorbs fluorescence from the first colorant at lest in the range of 600-700 nm and does not have a fluorescence maximum in a visible wavelength region so that the blue color is improved.

The properties of the dissolved blue color filter are viewed as inherent with respect to the region of fluorescence. As Kobayashi in view of Tang discloses a blue color filter composed on the claimed materials, the blue color filter of Kobayashi in view of Tang would be expected meet the instant limitations.

7. **Regarding Claims 11 and 15**, Kobayashi and Tang does not mention a quencher anion that that shows fluorescence from the first colorant or the second colorant

Kobayashi and Tang disclose some representative anions that are claimed by the applicant such as ClO_4^- for Formula 1 and Cl^- for formula 7. The anions disclosed by Kobayashi and Tang would therefore function in the same capacity as a quencher anion for fluorescence from the first colorant or the second colorant.

Response to Amendments/Arguments

Applicant argues that Nambe's dyes are in a different field of endeavor and their selecting is based on hindsight.

The examiner counters that a skilled artisan would look to the world of organic chemistry for cyanine based dyes and would have selected from known parent ring system which would have included those of Nambe. Moreover, the examiner has also applied the Tang who discloses heterocyclic cyanine based colorants that reads on applicants' claimed structure used in electroluminescent devices. As the parent ring system was known and specific examples of heterocyclic cyanine dye used in electroluminescent devices were known at the time of the invention, the examiner disagrees that the selection of such materials is based on hindsight.

The applicant argues that Kobayashi does not disclose using blue color filters which are completely dissolved in a binder resin nor offer equivalent improved color purity.

The examiner counters that the prior art teaches blue color filters made for compounds that read on applicants' formula(s) 1 and 2. Kobayashi discloses a method of dispersing the color filters in the binder resin than is identical to the applicants' and

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Kobayashi also uses a transparent photopolymerizable resin (binder resin). Solubility is viewed as an inherent physical property that would be affected by the solvent used. A person of ordinary skill in the art would through routine experimentation determine a suitable solvent to disperse the colorant in the binder resin. Moreover, the color filter of Kobayashi also blocks transmission at 500 to 550 nm which is in agreement with applicant specification. Kobayashi also indicates that when a phthalocyanine dye like formula (1) is used alone large deviations from the desired hue can be caused (page 4) and a color mixture of different dyes is selected to suppress undesirable light transmission to improve the color purity (page 5).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to have achieved complete solubilization of the color filter in the binder resin by adding a solvent in which the color filter material had sufficient solubility to aid in dispersion.

The combined teaching of Kobayashi with Namba and with Tang show that the color purity improvement in the same region using similar colorants and a transparent photopolymerizable resin mixed with a solvent was known at the time of the invention.

The properties of the dissolved blue color filter are viewed as inherent with respect to the region of fluorescence. As Kobayashi in view of Tang discloses a blue color filter composed on the claimed materials, the blue color filter of Kobayashi in view of Tang would be expected meet the instant limitations.

The applicant's arguments with respect to claims 9-16 have been considered but are moot in view of the new grounds of rejection necessitated by the applicant's amendment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY CLARK whose telephone number is (571)270-7087. The examiner can normally be reached on M-Th 7:00 AM to 5 PM Alternating Fri 7:30 AM to 4 PM and Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art Unit 1786

GREGORY CLARK/GDC/
Examiner
Art Unit 1786

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